

REMARKS

Claims 1-19 were previously pending in this application. Claims 1 and 11 have been amended. Claims 7 and 12-19 have been withdrawn as a result of the restriction requirement election. As a result claims 1-6 and 8-11 are pending for examination with claim 1 being an independent claim. No new matter has been added.

Elections/Restrictions

The Restriction Requirement of May 17, 2002 (Paper number 9) characterized group I as encompassing claims 1-5 and 7. Applicant's thank the Examiner for the indication that additional claims 6 and 8-11 fall within Group I. The status of claim 7 is unclear to applicants, however. It is Applicants understanding that claim 7 remains in Group I.

Sequence Compliance

The Office Action indicates that the text on pages 30 and 31 of the instant specification is not in compliance with the requirements for Sequence Identifiers. The Substitute Sheets submitted with the filing of the Patent Application on January 31 2000 added the appropriate Sequence Identifiers to the specification. It is believed that no further amendments are required.

Serial No.: 09/463,874
Conf. No.: 6909

- 11 -

Art Unit: 1646

Oath/Declaration

A replacement oath/declaration is enclosed herewith.

The Drawings

Applicants have submitted two replacement drawings pursuant to the examiner's comments relating to Figures 10 and 11 in bullet number 7 of the office action.

Applicants have not attached any additional drawing changes because Applicants have not received a Notice of Draftsperson's Patent Drawing Review Form PTO 948. Although the office action at bullet number 6 indicates that a PTO 948 Form is attached, the form was not attached. Additionally the box relating to the PTO 948 Form in the office action summary sheet is not checked off. Applicants request that if any changes need to be made to the drawings that the PTO Form 948 be mailed out.

Rejections Under 35 U.S.C. §112

Claims 1-6 and 8-11 have been rejected under 35 USC 112 first paragraph. According to the Examiner, the instant specification fails to described the entire genus of proteins encompassed by the claims. Applicant's respectfully disagree.

The rejection is based on the breadth of the genus of compounds claimed. Although Applicants were told that the restriction requirement to a single species was maintained and that the claims did not encompass a genus, Applicants will address the rejection. The specification as filed completely and adequately describes the claimed genus of compounds. The class of compounds is described with reference to the species that is described in the working examples. The claims, however, are not limited to such compounds. Applicants have described the preferred properties of the genus of compounds in detail in the specification on pages 6-11. Specific examples of the members of those classes is set forth on page 8 and 11. Other than asserting that the prior art is unpredictable, the Examiner has not provided any evidence or arguments that one of skill in the art would not believe on its face the assertions made by the applicant in the specification. Thus, unless evidence is presented to the contrary applicant has adequately described the claimed genus of compounds.

Claims 5 and 11 have been rejected under 35 USC 112 second paragraph as being indefinite. In particular claim 5 is rejected because, according to the examiner, the term "huntingtin" is vague and indefinite.

Claim 5 is not vague. Although the term "huntingtin" indeed does embrace a plurality of molecular species, the term is clear to one skilled in the art. Enclosed is a copy of the paper by the Huntington's Disease Collaborative Research Group (HDCRG), Cell, 72, 971-983 (1993) cited in the application on page 2, line 1. The authors of this paper identified the Huntington's disease gene, IT15 and coined the term "huntingtin" designating said gene (p. 980 right col. last paragraph), which since then has been widely accepted in the field. The paper also states that huntingtin codes for a gene with an expected molecular weight of ~348 kD, and reports a specifically designated polymorphic (CAG)_n trinucleotide repeat which varies in length (abstract, p. 976, left col., 3rd paragraph, Table 1). The encoded protein exhibits polyglutamine repeats of varying length. Accordingly, the skilled artisan would have known that "huntingtin"

refers to a defined gene and its protein product with a defined polymorphic site. Additionally, the polymorphism of huntingtin is consistent with the embodiments of claims 3 and 4, directed to polyglutamine expansions.

Claim 11 was rejected for a lack of antecedent basis. Applicants have amended claim 11 to add the term “cell”. It is believed that the amendment is sufficient to overcome the rejection.

Rejections Under 35 U.S.C. §102

The Examiner rejected claims 1-6 and 8-11 (or 1-4, 6 and 8-11) under 35 U.S.C. §102(b) as being anticipated by Onodera et al. It is unclear whether claim 5 is rejected in view of Onodera et al. in view of the inconsistent numbering in the rejection.

Claim 1 has been amended in accordance with the amendments made during prosecution of the International application. A copy of the Article 34 amendments was submitted to the USPTO at the time of the filing of the patent application.

Amended claim 1 and the claims dependent thereon are not anticipated by Onodera et al., because the amended claim includes a recitation of at least one cleavable site within the fusion protein. Onodera et al does not describe or suggest a fusion protein having one or more cleavable sites. Thus the amended claims are novel in view of Onodera et al.

Accordingly, withdrawal of this rejection is respectfully requested.

Double Patenting

The Examiner has advised applicants that if claim 1 is found to be allowable that claim 6 will be objected to. Applicants will address this issue if one or more of the claims is indicated to be allowable.

CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
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